In the Supreme Court of the United States

October Term, 1975
No. 587

IN RE: A CONDEMNATION PROCEEDING IN REM BY REDEVELOPMENT AUTHORITY OF THE CITY OF PHILADELPHIA FOR THE PURPOSE OF REDEVELOPMENT OF FRANKLIN TOWN PROJECT PHILADELPHIA, INCLUDING CERTAIN LAND, IMPROVEMENTS, AND PROPERTIES

PHILIP B. BASSER ADVERTISING, INC., PHILIP B. BASSER, GERTRUDE GRENNETTE, THOMAS A. LAZAR, GENEVEVE LAZAR, ARMONDO DE FRANCESCO, JOSEPH SORGER, WILLIAM SATIS, BESSIE SATIS, HARRY WEXLAR, ARISTIDAS G. PAPPAS AND BARBARA PAPPAS,

Petitioners

vs.

REDEVELOPMENT AUTHORITY OF THE CITY OF PHILADELPHIA

PETITIONERS' REPLY BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

DAVID FREEMAN,
Attorney for Petitioners

Suite 1222
1315 Walnut Street Building,
Philadelphia, Pa. 19107

Murrelle Printing Co., Law Printers, Box 100, Sayre, Pa. 18840
James M. Clark, Philadelphia Representative, MU 6-5692

TABLE OF CONTENTS

TABLE OF CITATIONS

PETITIONERS' REPLY BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

The question posed by petitioners for decision by this Court, stated generally, is whether a certification of blight is sufficient to deter a Court from determining whether a taking was, nevertheless, essentially for a private purpose.

Redevelopment authorities and municipal legislative bodies may be maneuvered by enterprising businessmen to deprive citizens of their property for the paramount purpose of private gain by means of a taking ostensibly for the public welfare. In this case, it was accomplished by attaching an entire valuable city block (an "oasis" according to the trial judge) to the dilapidated property already owned by the proponents of the scheme, on the plea that this block (close to the center of activity in the city and which in time would make it on its own) was supposedly necessary to make the project "viable", that is, permit the proponents to use their own property to the best advantage. It was a bold act of piracy cloaked by Orwellian semantics in sententious sanctimony. The shoddy business of approaching the authorities in secret, obtaining their tacit approval and then buying up property on the sly, is treated in respondent's brief as if it were an open and above-board transaction.

Respondent's brief does not assert that the question posed should not be answered, or that it is not of sufficient importance for this Court. Nor does respondent specifically assert that the State Courts have answered the question. Instead, in a brilliant display of nebulous advocacy,

in a tactic of confession and avoidance, *it infers* an answer was made and then goes on to say "the trial Court found there was not a scintilla of evidence to sustain petitioners' contentions". *This statement is not found anywhere in the opinion of trial Court.*[1] Nor did any court examine the evidence to determine the essential purpose of the taking; holding merely that elimination of blight is a public purpose.

Respondent cites *Berman vs. Parker,* 348 U.S. 26, 75 S. Ct. 98, as authority in this matter. That case deals only with (a) the constitutionality of redevelopment legislation, (b) the propriety of hiring private redevelopers, (c) the criteria of blight (the drawing of area lines and whether every property taken must be blighted).

It *does not* concern itself with the issue here, viz., whether or not a taking may be for the paramount purpose of private profit, although the area is blighted. Excerpts are quoted out of context, in an apparent attempt (again not specifically stated) to assert that a Court cannot go beyond the determination of the authority to take a blighted area.

That this was not the intent of the Court in that case is indicated by its express approval of the case of *U.S. ex rel. T.V.A. vs. Welch,* 327 U.S. 546, 552, 66 S. Ct. 715-718, 90 L. Ed. 843, in its citation of the quote from *City of Cincinnati vs. Vester,* 281 U.S. 439-446, 50 S. Ct. 360-362, 74 L. Ed. 950, as follows:

---

[1] The statement of the trial Court (Appendix A, page 38) was: "There is not a scintilla of evidence to support the allegation that the Redevelopment Authority has been subverted, 'taken over' and/or dominated by the private redeveloper".

This allegation was abandoned and not pressed on appeal.

> "It is well established that, in considering the application of the Fourteenth Amendment to cases of expropriation of private property, the question of what is a public use is a judicial one."

The use by respondent of the broad language in *Berman* points up additional reason for this Court to grant the petition. The Court should ensure that the opinion in *Berman* not be misused as a shield for the debasement of redevelopment procedures. It is necessary that the redevelopment system be protected from exploitation by profit seekers in order to prevent the collapse of this very significant social legislation in a sea of cynicism and corruption.

Respondent argues that 15 judges failed to discern a conspiracy. The argument of this petition is not that the State Courts failed to discern a conspiracy, but that they applied a rule of law which abrogates the necessity for a determination of purpose where blight is present.

Finally respondent, in tones of mock horror and round-eyed astonishment argues the impossibility of the involvement of city authorities in conspiracies.

Petitioners have not asserted on appeal that there were criminal conspiracies, or any other types of conspiracy in the pejorative sense. Nor is such a challenge necessary for their case. The paramount purpose of the taking as one for private gain, is established by the testimony of the Franklintown officers, presented by the authority. This is in violation of the due process clause of the 14th Amendment and petitioners should have relief.

Respectfully submitted,

DAVID FREEMAN,
Attorney for Petitioners.